



**Board of Directors**

July 1, 2015

via email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

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Ms. Felicia Marcus  
Board Chair  
c/o Jeanine Townsend, Clerk of the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814

**SUBJECT: Comment Letter: Conservation Pricing**

Dear Chair Marcus:

Eastern Municipal Water District (EMWD) would like to express its appreciation for the opportunity to provide comments to the State Water Resources Control Board (State Board) on conservation water pricing and the implementation of Directive 8 of Executive Order B-29-15. Our comments reflect the District's experience in the implementation of an allocation-based tiered rate structure and our belief that flexibility, local control, legal assurances and funding assistance are critical to the broader application of conservation water pricing practices, where appropriate.

***The Efficacy of Allocation-Based Tiered Rates is Well-Established:***

EMWD is a water, wastewater and recycled water provider in Western Riverside County, serving a population of approximately 785,000 residents within a 542 square mile service area.

EMWD's allocation-based rates, implemented in 2009, are designed to encourage efficient water use by customers and discourage wasteful behavior using four rate tiers, as described in the table on the following page.

Tier	Rate as of 7/1/15	Description
Tier 1	\$1.793/ccf (ccf = one hundred cubic feet)	Provides water for indoor water budget: <i>Number of people in household x 60 gallons per person x drought factor x Number of days in the billing cycle</i>
Tier 2	\$3.280/ccf	Provides water for outdoor water budget: <i>Square feet of irrigated landscape x Evapotranspiration amount x conservation factor</i>
Tier 3 <sup>(1)</sup>	\$5.879/ccf	Water used in excess of one-half of the Indoor and Outdoor water budgets
Tier 4	\$10.755/ccf	Any water used in excess of the Tier 3 limit

In 2013, the University of California, Riverside (UCR) released a study detailing the efficacy of tiered rates, specifically addressing the effectiveness of EMWD’s allocation-based tiered rate structure and quantifying the effects of using sharply ascending commodity pricing to encourage water use efficiency.

The results demonstrated that EMWD’s average prices rose less than four percent under water budgeting, but would have had to rise thirty-four percent under flat rate pricing to achieve the same demand effect. The study also found that after isolating for effects of inflation and the economic downturn, EMWD’s budget-based rate structure alone resulted in an approximate fifteen percent reduction in water use.

Dr. Kenneth Baerenklau, the associate professor of environmental economics policy at UCR conducted the study, which was the first study of its kind to estimate the conservation potential of water budget rate structures, concluded that the increasing block-rate water budgets appeared to be a highly effective price-based conservation tool that does not require significant increases to the average price paid for water to achieve conservation.

The ability to signal the need for water use efficiency without substantially raising overall water rates is important to EMWD as our service area has large segments of disadvantaged communities. Equally important is the opportunity for low income residents to reduce their water costs while still meeting the demands of property-related water needs. In the EMWD service area, it has been our experience that conservation pricing extends this flexibility to ratepayers, and in turn customers have widely embraced this concept. However, the District does

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<sup>1</sup> EMWD’s Water Shortage Contingency Plan (“WSCP”) is directly linked to and enforced through the district’s allocation-based rate structure. This type of rate structure provides the ability for agencies to further reduce customer’s outdoor and indoor allocations, thereby economically compelling customers to further conserve through exposure to higher rates. The WSCP adopted by EMWD employs this method by progressively reducing customers’ allocations in the WSCP’s mandatory reduction stages. Effective June 1, 2015, EMWD is currently at a Stage 4, which reduces Tier 2 (outdoor) budgets by 10% and eliminates billing in Tier 3. Any use over the reduced allocation will result in the Tier 4 charge of \$10.755/ccf, or \$4,684/acre-foot.

recognize and recommend that water providers adopt a billing program that is appropriate for the communities they serve and that a one-size-fits-all approach in terms of pricing, the number of tiers and other factors does not work.

### ***State Board Actions to Expand Application of Conservation Pricing***

Several water suppliers throughout the state have expressed interest in moving forward with developing conservation rate structures. However, obstacles such as the lack of technical support, financial burdens, access to technology, and fear of litigation have been identified as roadblocks to broader application. In light of these concerns, EMWD is supportive of the State Board serving as a resource for water suppliers that would benefit from access to best practices, financial support, and technical assistance.

EMWD would like to offer the following recommendations for consideration by the State Board:

- ***Facilitate Financial Assistance*** – The cost of establishing a conservation pricing system is one of the greatest obstacles to broader application. EMWD spent nearly \$1 million to conduct a cost of service and rate study analysis, commission aerial imagery, make changes to billing system, generate sample bills, and set-up climate monitoring systems. Access to grant program funding to help offset this burden would greatly assist interested water suppliers and remove a major hurdle for implementation.
- ***Provide Technical and Legal Assistance*** – Without experienced guidance and access to experts in the field of rate setting, a water supplier risks legal exposure and may miss opportunities to maximize existing technologies. Mixed views coming out of recent court cases may have a chilling effect on broader application of conservation water pricing. The State Board should facilitate access to legal and technical experts to assist with liability and cost concerns.
- ***Support Local Control*** – Local control is critical to establishing a rate structure that takes into account the local “on the ground” issues within a community. Water suppliers should be in the position to make the determination if conservation pricing is appropriate for their agency. This flexibility is necessary to appropriately establish a pricing structure that complements the property uses in the region, and accounts for the size of the system and local acceptance of conservation pricing. A broad brush, one-size-fits-all regulated approach to enhance application of conservation water pricing would not be an appropriate or effective strategy for the State Board.

EMWD recommends that the State Board serve as a “clearing house” of information on best practices, financial resources, legal and technical assistance. Encouraging and informing suppliers would broadly benefit those agencies looking to move forward with adoption of conservation pricing, while preserving the local flexibility to design and implement a rate structure that best works within the local community.

### ***State Board Actions to Support Water Suppliers Using Conservation Pricing Mechanisms***

As an early adopter of allocation-based tiered rates, EMWD applauds the State Board in considering the needs of water suppliers that have already implemented conservation water pricing. EMWD would like to suggest the following actions for water suppliers that are currently using conservation water pricing:

- ***Provide Incentives and Flexibility*** – EMWD encourages the State Board to provide incentives to those water suppliers that have already adopted conservation rate structures, especially as the State Board considers longer term conservation strategies. Conservation pricing produces quantifiable water reductions by ratepayers through price signals. Those agencies that have been using conservation pricing should be recognized for their efforts and allowed the flexibility to use their rate structure to address water use efficiency needs.
- ***Recognize the Benefits of all Conservation Pricing Structures*** – Flexibility and local control are the cornerstones of moving forward with broader adoption of conservation water pricing. As such, actions by the State Board to encourage new adoption of conservation pricing should not impact those water suppliers that have already adopted tiered rates.

In addition to the aforementioned opportunities to provide incentives to suppliers implementing conservation water pricing recognizing that there are benefits to various pricing strategies, the lack of legal certainty continues to be the largest challenge to agencies that have adopted conservation water pricing.

### ***Actions to Harmonize Conservation Pricing with Proposition 218***

The legal uncertainty that has resulted from a patchwork of court rulings on conservation water pricing has, as previously stated, had a chilling effect on the water industry. Water suppliers have expressed that they fear moving forward with conservation pricing due to the possibility of inadvertently establishing a rate structure that would be vulnerable to a court challenge. This uncertainty must be addressed before water suppliers are asked, or encouraged to adopt conservation water pricing, and would benefit water providers that currently use conservation pricing.

EMWD supports and encourages the State Board to continue to be part of the discussions identifying a statutory solution or initiative to provide clear and undisputable authority for water agencies to use conservation pricing while still complying with the applicable elements of Proposition 218. Clearly, developing conservation pricing in a reasonable and appropriate manner under Proposition 218 must be harmonized with the provisions in Article X of the California Constitution preventing waste and unreasonable use of water.

Given the chilling effect the legal uncertainties are having on agencies that may have been considering conservation pricing, plus the fact that a conservation price structure such as EMWD's has been demonstrated to achieve a minimum fifteen percent reduction in water usage, this clarification to the law needs to be advanced immediately. Water providers must be provided with certainty by the state that implementing conservation pricing is clearly compliant

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with the law. EMWD encourages the State Board staff and board members to continue to engage on this topic; and in concert with the Administration and Legislature, help develop and strongly advocate for an immediate solution.

Thank you again for the opportunity to submit comments. If you or your staff has any questions, please feel to call me at (951) 928-6130, or e-mail me at [jonesp@emwd.org](mailto:jonesp@emwd.org).

Sincerely,

A handwritten signature in cursive script that reads "Paul D. Jones II".

Paul D. Jones II, P.E.  
General Manager

cc. EMWD Board of Directors